

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 309

## **SENATE BILL 1406**

AN ACT

AMENDING TITLE 41, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-108; REPEALING LAWS 2010, CHAPTER 211, SECTION 7; RELATING TO A BORDER FENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 1, article 1, Arizona Revised Statutes,  
3 is amended by adding section 41-108, to read:

4 41-108. Interstate compact to build border fence; requirements;  
5 joint border security advisory committee; trust fund

6 A. THE GOVERNOR MAY ENTER INTO A COMPACT WITH OTHER STATES TO PROVIDE  
7 FOR THE CONSTRUCTION AND MAINTENANCE OF A SECURE FENCE ALONG THE  
8 ARIZONA-MEXICO BORDER LINE THAT IS LOCATED ON PRIVATE, STATE OR FEDERAL  
9 PROPERTY IF PERMITTED. THE GOVERNOR MAY ENTER INTO SUCH A COMPACT AS PART OF  
10 ANY BROADER COMPACT RELATING TO THE SAME OR SIMILAR ISSUE. A COMPACT ENTERED  
11 INTO PURSUANT TO THIS SECTION SHALL CONTAIN AT LEAST THE FOLLOWING:

12 1. A PROVISION MAKING IT AVAILABLE FOR JOINDER BY ALL STATES.

13 2. A PROVISION FOR WITHDRAWAL FROM THE COMPACT ON WRITTEN NOTICE TO  
14 THE PARTIES NO SOONER THAN ONE YEAR AFTER THE DATE OF THE NOTICE.

15 3. A PROVISION FOR THE ESTABLISHMENT OF AN ORGANIZATION:

16 (a) TO ADMINISTER AND MANAGE THE CONSTRUCTION AND MAINTENANCE OF THE  
17 BORDER FENCE.

18 (b) TO ADMINISTER ANY MONIES OBTAINED FOR THE CONSTRUCTION AND  
19 MAINTENANCE OF THE BORDER FENCE.

20 4. A PROVISION THAT PROVIDES FOR A STATE TO DEVELOP THE STATE'S OWN  
21 FUNDING MECHANISM TO CONSTRUCT AND MAINTAIN THE BORDER FENCE THROUGH PRIVATE  
22 OR PUBLIC DONATIONS FROM WHATEVER SOURCE AND THAT IS ADMINISTERED BY THE  
23 ORGANIZATION ESTABLISHED PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION.

24 5. A REQUIREMENT THAT A STATE USE CORRECTIONAL INMATES AS WELL AS  
25 PRIVATE CONTRACTORS TO CONSTRUCT AND MAINTAIN THE BORDER FENCE.

26 6. THE OPTION TO CONSTRUCT AND MAINTAIN THE SECURE FENCE ON STATE OR  
27 FEDERAL LAND.

28 7. OTHER PROVISIONS NECESSARY TO IMPLEMENT THE COMPACT

29 B. IF THIS STATE DOES NOT ENTER INTO THE COMPACT AUTHORIZED BY  
30 SUBSECTION A OF THIS SECTION, THIS STATE MAY STILL CONSTRUCT AND MAINTAIN A  
31 SECURE FENCE ALONG THE ARIZONA-MEXICO BORDER LINE THAT IS LOCATED ON PRIVATE,  
32 STATE OR FEDERAL PROPERTY IF PERMITTED. SUBSECTION A, PARAGRAPHS 4, 5 AND 6  
33 OF THIS SECTION APPLY TO THE BORDER FENCE.

34 C. THE JOINT BORDER SECURITY ADVISORY COMMITTEE IS ESTABLISHED  
35 CONSISTING OF THE FOLLOWING MEMBERS:

36 1. THE PRESIDENT OF THE SENATE OR THE PRESIDENT'S DESIGNEE AS A  
37 NONVOTING MEMBER.

38 2. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE SPEAKER'S  
39 DESIGNEE AS A NONVOTING MEMBER.

40 3. TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE APPOINTED BY  
41 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AS NONVOTING MEMBERS.

42 4. TWO MEMBERS OF THE SENATE WHO ARE APPOINTED BY THE PRESIDENT OF THE  
43 SENATE AS NONVOTING MEMBERS.

1           5. SIX MEMBERS WHO ARE APPOINTED BY THE GOVERNOR.  
2           6. A COUNTY SHERIFF FROM A COUNTY THAT HAS A POPULATION OF MORE THAN  
3 THREE MILLION PERSONS.  
4           7. A COUNTY SHERIFF FROM A COUNTY THAT HAS A POPULATION OF MORE THAN  
5 THREE HUNDRED THOUSAND PERSONS BUT LESS THAN SIX HUNDRED THOUSAND PERSONS.  
6           8. A COUNTY SHERIFF FROM A COUNTY THAT IS LOCATED ALONG THE  
7 ARIZONA-MEXICO BORDER AND THAT HAS A POPULATION OF MORE THAN ONE HUNDRED  
8 THOUSAND PERSONS BUT LESS THAN ONE HUNDRED FIFTY THOUSAND PERSONS.  
9           9. A COUNTY SHERIFF FROM A COUNTY THAT IS LOCATED ALONG THE  
10 ARIZONA-MEXICO BORDER AND THAT HAS A POPULATION OF AT LEAST ONE HUNDRED FIFTY  
11 THOUSAND PERSONS BUT LESS THAN SIX HUNDRED THOUSAND PERSONS.  
12           D. COMMITTEE MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION FOR  
13 COMMITTEE ACTIVITIES BUT MAY BE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES  
14 PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.  
15           E. THE PRESIDENT AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL  
16 EACH APPOINT A COCHAIRPERSON OF THE COMMITTEE.  
17           F. THE COMMITTEE SHALL MEET ON THE CALL OF THE TWO COCHAIRPERSONS, BUT  
18 NO MORE FREQUENTLY THAN MONTHLY.  
19           G. THE COMMITTEE MAY:  
20           1. TAKE TESTIMONY AND OTHER EVIDENCE REGARDING THE INTERNATIONAL  
21 BORDER WITH MEXICO.  
22           2. ANALYZE BORDER CROSSING STATISTICS.  
23           3. ANALYZE RELATED CRIME STATISTICS.  
24           4. MAKE RECOMMENDATIONS DESIGNED TO INCREASE BORDER SECURITY.  
25           5. ADMINISTER AND MANAGE THE CONSTRUCTION AND MAINTENANCE OF THE  
26 BORDER FENCE.  
27           6. MAKE OTHER RECOMMENDATIONS DEEMED ESSENTIAL BY THE COMMITTEE.  
28           H. THE COMMITTEE MAY USE THE SERVICES OF LEGISLATIVE STAFF AS  
29 REQUIRED.  
30           I. BEGINNING NOVEMBER 30, 2011 AND EACH MONTH THEREAFTER, THE  
31 COMMITTEE SHALL SUBMIT A WRITTEN REPORT OF ITS FINDINGS AND RECOMMENDATIONS  
32 TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE  
33 AND THE GOVERNOR. THE COMMITTEE SHALL PROVIDE A COPY OF THE REPORT TO THE  
34 SECRETARY OF STATE.  
35           J. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE COMMITTEE MAY VOTE TO  
36 GO INTO EXECUTIVE SESSION TO TAKE TESTIMONY OR EVIDENCE IT CONSIDERS  
37 SENSITIVE OR CONFIDENTIAL IN NATURE, WHICH IF RELEASED COULD COMPROMISE THE  
38 SECURITY OR SAFETY OF LAW ENFORCEMENT OR MILITARY PERSONNEL OR A LAW  
39 ENFORCEMENT OR NATIONAL GUARD LAW ENFORCEMENT SUPPORT OPERATION.  
40           K. THE BORDER SECURITY TRUST FUND IS ESTABLISHED CONSISTING OF MONIES  
41 COLLECTED PURSUANT TO THIS SECTION. THE STATE TREASURER SHALL ADMINISTER THE  
42 TRUST FUND AS TRUSTEE FOR THE PURPOSES OF THE COMPACT ENTERED INTO PURSUANT  
43 TO SUBSECTION A OF THIS SECTION OR FOR THE PURPOSES OF SUBSECTION B OF THIS  
44 SECTION. THE COMPACT ENTERED INTO PURSUANT TO SUBSECTION A OF THIS SECTION  
45 OR THE BORDER FENCE PURSUANT TO SUBSECTION B OF THIS SECTION IS THE

1 BENEFICIARY OF THE TRUST FUND. ALL MONIES IN THE TRUST FUND SHALL BE USED  
2 EXCLUSIVELY TO CARRY OUT THE PURPOSES OF THIS SECTION. THE STATE TREASURER  
3 SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED  
4 IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN  
5 SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE  
6 STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. THE STATE TREASURER SHALL  
7 INVEST AND DIVEST ANY TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS  
8 PROVIDED BY SECTIONS 35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT  
9 SHALL BE CREDITED TO THE TRUST FUND. MONIES IN THE TRUST FUND ARE SUBJECT TO  
10 LEGISLATIVE APPROPRIATION AND ARE EXEMPT FROM THE PROVISIONS OF SECTION  
11 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

12 Sec. 2. Repeal

13 Laws 2010, chapter 211, section 7 is repealed.

APPROVED BY THE GOVERNOR APRIL 28, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2011.

Passed the House April 18, 2011,

by the following vote: 40 Ayes,

19 Nays, 1 Not Voting

  
Speaker of the House

*Cheryl Laube*  
Chief Clerk of the House

Passed the Senate February 28, 2011.

by the following vote: 20 Ayes,

9 Nays, 1 Not Voting

Russell White  
President of the Senate

Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

~~This Bill~~ was received by the Governor this

           day of                                 , 20      ,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**Secretary to the Governor**

Approved this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**Governor of Arizona**

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

~~This Bill~~ was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Secretary of State

**S.B. 1406**

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 20 11

by the following vote: 21 Ayes,

9 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 20 11

at 12:00 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 28<sup>th</sup> day of

April

at 2:40 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 28<sup>th</sup> day of April, 20 11

S.B. 1406

at 4:01 o'clock P. M.

[Signature]  
Secretary of State